

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10451-RWZ
CIVIL ACTION NO. 04-10717-RWZ

JOSEPH SCHMITT,
Plaintiff,
v.
JEFFREY SMITH, et al.,
Defendants,

&

JOSEPH SCHMITT,
Plaintiff,
v.
PATRICK MULVEY, et al.,
Defendants.

**DEFENDANTS' MOTION FOR CLARIFICATION OF THIS COURT'S ORDER DATED
OCTOBER 10, 2007**

Defendants in the above-captioned matters seek clarification of this Court's Order dated October 10, 2007. (Doc. No. 103.)

In his original motion (Doc. No. 72), plaintiff Joseph Schmitt ("Schmitt") sought the return of the two letters/stories ("stories") that were the subject of the litigation in the instant cases. The stories were confiscated from Schmitt while he was an inmate incarcerated at MCI-Cedar Junction. He is now civilly committed as a sexually dangerous person to the Massachusetts Treatment Center ("Treatment Center").

As grounds therefor, in Schmitt's numerous subsequent motions which he filed with the Court concerning the return of the stories (Doc. Nos. 90, 93, 95, 101), Schmitt acknowledges that he is not permitted to retain such materials at the Treatment Center where he is currently committed, stating that he has never asked to have the materials given to him at the Treatment

Center, but, rather, is requesting that the stories be forwarded to a friend who has offered to care for his personal belongings for him, a Mr. Derek Kolb in Albuquerque, New Mexico. (Doc. No. 90; see also Doc. Nos. 93, 95.)

Accordingly, Defendants are requesting a clarification of this Court's Order regarding the return of the stories. Defendants, based on Schmitt's subsequent filings, interpret this Court's Order to mean that they are to send the stories to Mr. Kolb in New Mexico.

Respectfully submitted,

NANCY ANKERS WHITE
Special Assistant Attorney General

DATED: October 15, 2007

C. Raye Poole

/s/ C. Raye Poole

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Certificate of Service

I, C. Raye Poole, counsel for the defendants, hereby certify that on this 15th day of October 2007, I served a copy of the above motion by first class mail, postage prepaid, on the Schmitt, Joseph Schmitt, at his last known address, Massachusetts Treatment Center, 30 Administration Road, Bridgewater, Massachusetts 02324.

/s/ C. Raye Poole
C. Raye Poole